



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

1624  
#18

IN RE APPLICATION OF: )  
CALDWELL ET AL. )  
Serial No: 09/522,117 ) Examiner: V. Balasubramanian  
Filed: March 9, 2000 ) Group Art Unit: 1624  
For: COMPOUNDS CAPABLE OF ACTIVATING CHOLINERGIC RECEPTORS

REQUEST FOR RECONSIDERATION

Assistant Commissioner For Patents  
Washington, D.C. 20231

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TECH CENTER 1600/2900

Sir:

In response to the Office Action of January 28, 2002, Applicants submit the following remarks for consideration.

REMARKS

Claims 21-27 are pending. Applicants respectfully submit all claims are in condition for allowance for at least the following reasons.

35 U.S.C. §103(a) Over Caldwell et al.

Claims 21-27 stand rejected under 35 U.S.C. § 103(a) as allegedly obvious in view of Caldwell et al., U.S. Patent 5,861,423. Reconsideration and withdrawal of the rejection are in order for the following reasons.

This rejection has been repeated because it is asserted the Declaration under 37 C.F.R. §1.132 of Dr. Caldwell was not submitted with the response filed October 22, 2001. Applicants herewith refile the Declaration of Dr. Caldwell originally submitted with the October 22, 2001, response. Again, Applicants respectfully assert that the Patent Office has not established a *prima facie* case of obviousness for at least the reasons set forth in Applicants' response filed February 28, 2001. However, in order to expedite prosecution, and without any admission of obviousness,

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Applicants submit the Declaration of Dr. Caldwell as evidence of unexpected results of the claimed invention over U.S. Patent 5,861,423.

In view of the Declaration of Dr. Caldwell submitted herewith, Applicants respectfully request reconsideration and withdrawal of the rejection under 35 U.S.C. §103(a).

**Provisional Non-statutory Double Patenting Rejections**

Claims 21-27 stand provisionally rejected for non-statutory type double patenting over co-pending U.S. applications 08/631,761 and 09/570,226. Because Applicants submit this application is in condition for allowance, and neither cited application has yet issued as a patent, withdrawal of these rejections is respectfully requested in order that this application may proceed to issue. A terminal disclaimer will be submitted, if appropriate, in connection with the other co-pending applications upon an indication of allowable subject matter in those cases.

For at least the reasons set forth herein, Applicants submit all of pending claims 21-27 are in condition for allowance. Prompt consideration and action in the form of a Notice of Allowance is thus respectfully requested.

Should the Examiner have any questions, he is invited to contact Applicants' undersigned representative at the telephone number below.

Respectfully submitted,

4/25/02

Date

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Docket No.: T103 1300.2



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### CERTIFICATE OF MAILING

I hereby certify that the following documents are being mailed in an envelope by First  
Class mail to:

Assistant Commissioner for Patents  
Washington, D.C. 20231

Request for Reconsideration  
Declaration Under 37CFR §1.132  
Return Postcard

on April 25, 2002.

Teresa Burgess  
(Typed or printed name of person mailing  
correspondence)

  
(Signature of person mailing correspondence)

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Serial Number: 09/522,117 Filing Date: March 9, 2000  
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Title: **COMPOUNDS CAPABLE OF ACTIVATING CHOLINERGIC RECEPTORS**  
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